

### **REMARKS**

The December 30, 2008 Office Action and cited reference therein have been considered. Claims 1-4 are pending in the present application, claims 1 and 2 having been amended therein. The claims define patentable subject matter as understood from the Office Action and should be allowed. Favorable consideration and such allowance are respectfully urged.

Applicants respectfully note from the Office Action Summary at paragraph 10 indicates that the drawings have been accepted by the Examiner.

Applicants also note with appreciation the Examiner's acknowledgement that the December 7, 2006 Information Disclosure Statement (IDS) has been received by the U.S.P.T.O.

### **Specification**

The term "dihydroxy" in the originally filed specification has been amended as "dihydroxy". Applicants submit that one of ordinary skill in the art would understand that dihydroxy is a typographic error of dihydroxy, therefore, no new matter is added by this amendment.

### **Interview Summary**

Applicant's attorney Anne Kornbau wishes to thank Examiner Kreuer for the courtesies extended during the telephone interview of February 20, 2009.

During that interview, Examiner Kreuer agreed that reciting the degree of crystallization in claim 2 would overcome the rejection under 35 U.S.C. 112, second paragraph.

Examiner Kreuer expressed concern that the crystalline polyester layer disclosed in the cited Toyo reference would inherently include the layer X as claimed in the present claims. It

was noted that this was not clear from the Toyo abstract, which only disclosed two layers, A and B. It was agreed that Examiner Kreuer will obtain a complete translation of the Toyo reference to see if there is any indication that the crystalline layer includes an X layer.

It was noted that the X layer claimed herein is formed by heat treating the A layer, as described beginning at the end of page 10 to page 11 of the application as filed. More importantly, comparative examples were conducted, the results of which are shown in Table 3 on page 18 of the application. These examples demonstrate that the presence of the X layer eliminates the formation of wicket scars during can production.

#### **Claim Rejections under 35 U.S.C. §112**

Claims 2 and 4 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim subject matter of claimed invention. Specifically, claim 2 states a layer is 10-60% but does not state a property to which the percentage refers.

Applicants have amended claim 2 to address the indefinite issue raised by the Examiner. Claim 2 now recites “a degree of crystallization of the highly crystallized layer (X) is 10-60%.” Withdrawal of this rejection is therefore respectfully requested.

#### **Claim Rejections under 35 U.S.C. §102**

Claims 1-4 were rejected under 35 U.S.C. §102(b) as being anticipated by JP 7-195618A (“Toyo”). Applicants respectfully traverse the rejection for the following reasons.

According to a non-limiting example embodiment illustrated in the sole figure of the present application, a resin-coated metal plate includes a metal plate and a resin film. The resin

film further includes a crystallized saturated polyester resin layer [A] and a layer composed of resin [B]. These two layers are applied to the metal plate by being extruded at the same time through a two-layer T-die. After the resin-coated metal plate is produced, a highly crystallized layer (X) is formed by maintaining the resin-coated metal plates at a predetermined temperature for a predetermined time, until a degree of crystallization of the highly crystallized layer (X) is 10-60%.

Toyo discloses a method to obtain a drawing squeeze can by providing a resin film consisting of a resin layer on a surface of a metal plate. The resin film consists of two layers: a crystalline saturated polyester resin layer and a resin composition layer.

Relying on compositions of the two layers, the rejection states that Toyo discloses all features of the claimed invention. Applicants respectively disagree.

Applicant is submitting herewith a machine translation of Toyo. Toyo discloses a crystallized saturated polyester resin layer [A] and a resin layer [B]. A highly crystallized layer (X) is not presented. In contrast, according to Applicant's claimed invention, there is a crystallized saturated polyester resin layer [A], a resin layer [B], and on a surface of the crystallized saturated polyester resin layer [A] is a highly crystallized layer (X) formed by a heat treatment, wherein layer (X) is not less than 2% of the thickness of layer [A]. Therefore, Toyo does not disclose each and every element of the claimed invention arranged as in the claim.

Toyo also discloses that the metal plate is first processed into a can, and then the can is dried, printed and baked (paragraph [0005]). Toyo does not discuss the technical problem of preventing "wicket scars". However, in the present application, the metal plate is dried in a baking oven before being processed into a can. At the drying process, the metal plate is held by a "wicket"

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in the baking oven. Therefore, the present application is to provide resin-coated metal plates that prevent "wicket scars" from occurring in the process of drying. This "wicket scars" problem is unlikely in Toyo because the purpose of the metal plate in Toyo is different from that of the present application.

For at least these reasons, Applicants respectfully submit that claims 1-4 are patentable over Toyo.

### **Conclusion**

In view of the above amendment and remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of record. Applicants submit that the application is in condition for allowance and early notice to this effect is most earnestly solicited.

If the Examiner has any questions, he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By /Ronni S. Jillions/  
Ronni S. Jillions  
Registration No. 31,979

RSJ:HL/ma  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528

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